

Senate File 2363

S-5091

1 Amend Senate File 2363 as follows:

2 1. By striking everything after the enacting clause and  
3 inserting:

4 <Section 1. Section 96.5, Code 2020, is amended by adding  
5 the following new subsection:

6 NEW SUBSECTION. 14. *Marijuana or controlled substance use in*  
7 *the workplace — disqualified.*

8 a. For purposes of this subsection, unless the context  
9 otherwise requires:

10 (1) “*Controlled substance*” means the same as defined in  
11 section 124.101.

12 (2) “*Marijuana*” means the same as defined in section 124E.2.

13 b. If the department finds that the individual became  
14 separated from employment due to ingesting marijuana in the  
15 workplace, working while under the influence of marijuana, or  
16 testing positive for any other controlled substance, for which  
17 the individual did not have a current prescription or which the  
18 individual was otherwise using unlawfully, under a drug testing  
19 policy pursuant to section 730.5 or any other procedures  
20 provided by federal statutes, federal regulations, or orders  
21 issued pursuant to federal law.

22 c. A disqualification under this subsection shall continue  
23 until the individual has worked in and has been paid wages for  
24 insured work equal to ten times the individual’s weekly benefit  
25 amount, provided the individual is otherwise eligible.

26 Sec. 2. Section 124E.2, subsection 2, paragraph i, Code  
27 2020, is amended to read as follows:

28 i. ~~Untreatable~~ Chronic pain.

29 Sec. 3. Section 124E.2, subsection 2, Code 2020, is amended  
30 by adding the following new paragraphs:

31 NEW PARAGRAPH. j. Severe, intractable autism with  
32 self-injurious or aggressive behaviors.

33 NEW PARAGRAPH. k. Post-traumatic stress disorder.

34 Sec. 4. Section 124E.2, subsections 5 and 6, Code 2020, are  
35 amended to read as follows:

1     5. *"Health care practitioner"* means an individual licensed  
2 under [chapter 148](#) to practice medicine and surgery or  
3 osteopathic medicine and surgery, a physician assistant  
4 licensed under chapter 148C, an advanced registered nurse  
5 practitioner licensed under chapter 152, or an advanced  
6 practice registered nurse under chapter 152E, who is a  
7 patient's primary care provider or a podiatrist licensed  
8 pursuant to chapter 149. ~~*"Health care practitioner"* shall not~~  
9 ~~include a physician assistant licensed under [chapter 148C](#) or~~  
10 ~~an advanced registered nurse practitioner licensed pursuant to~~  
11 ~~[chapter 152](#) or [152E.](#)~~

12     6. *"Medical cannabidiol"* means any pharmaceutical  
13 grade cannabinoid found in the plant *Cannabis sativa* L. or  
14 *Cannabis indica* or any other preparation thereof ~~that has~~  
15 ~~a tetrahydrocannabinol level of no more than three percent~~  
16 ~~and~~ that is delivered in a form recommended by the medical  
17 cannabidiol board, approved by the board of medicine, and  
18 adopted by the department pursuant to rule.

19     Sec. 5. Section 124E.2, Code 2020, is amended by adding the  
20 following new subsections:

21     NEW SUBSECTION. 4A. *"Employee"* means a natural person who  
22 is employed in this state for wages by an employer.

23     NEW SUBSECTION. 4B. *"Employer"* means a person who in this  
24 state employs for wages an employee.

25     NEW SUBSECTION. 5A. *"Laboratory"* means the state hygienic  
26 laboratory at the university of Iowa in Iowa City or any other  
27 independent medical cannabidiol testing facility accredited  
28 to standard ISO/IEC 17025 by an international organization  
29 for standards-approved accrediting body, with a controlled  
30 substance registration certificate from the United States drug  
31 enforcement administration and a certificate of registration  
32 from the board of pharmacy. For the purposes of this chapter,  
33 an independent laboratory is a laboratory operated by an  
34 entity that has no equity ownership in a medical cannabidiol  
35 manufacturer.

1     NEW SUBSECTION. 5B. "*Marijuana*" means any derivative of  
2 marijuana including but not limited to medical cannabidiol.

3     NEW SUBSECTION. 7A. "*Total tetrahydrocannabinol*"  
4 means eighty-seven and seven-tenths percent of the  
5 amount of tetrahydrocannabinolic acid plus the amount of  
6 tetrahydrocannabinol.

7     Sec. 6. Section 124E.4, subsection 1, unnumbered paragraph  
8 1, Code 2020, is amended to read as follows:

9     Subject to [subsection 7](#), the department may ~~approve the~~  
10 ~~issuance of~~ issue a medical cannabidiol registration card ~~by~~  
11 ~~the department of transportation~~ to a patient who:

12     Sec. 7. Section 124E.4, subsection 1, paragraph d,  
13 unnumbered paragraph 1, Code 2020, is amended to read as  
14 follows:

15     Submits an application to the department, on a form created  
16 by the department, ~~in consultation with the department of~~  
17 ~~transportation~~, that contains all of the following:

18     Sec. 8. Section 124E.4, subsection 1, paragraph f, Code  
19 2020, is amended by striking the paragraph.

20     Sec. 9. Section 124E.4, subsection 2, unnumbered paragraph  
21 1, Code 2020, is amended to read as follows:

22     A medical cannabidiol registration card issued to a patient  
23 by the department ~~of transportation~~ pursuant to [subsection 1](#)  
24 shall contain, at a minimum, all of the following:

25     Sec. 10. Section 124E.4, subsection 2, paragraph b, Code  
26 2020, is amended by striking the paragraph.

27     Sec. 11. Section 124E.4, subsection 3, unnumbered paragraph  
28 1, Code 2020, is amended to read as follows:

29     For a patient in a primary caregiver's care, subject to  
30 subsection 7, the department may ~~approve the issuance of~~ issue  
31 a medical cannabidiol registration card ~~by the department of~~  
32 ~~transportation~~ to the primary caregiver who:

33     Sec. 12. Section 124E.4, subsection 3, paragraph b,  
34 unnumbered paragraph 1, Code 2020, is amended to read as  
35 follows:

1 Submits an application to the department, on a form created  
2 by the department, ~~in consultation with the department of~~  
3 ~~transportation~~, that contains all of the following:

4 Sec. 13. Section 124E.4, subsection 3, paragraph c, Code  
5 2020, is amended by striking the paragraph.

6 Sec. 14. Section 124E.4, subsection 4, unnumbered paragraph  
7 1, Code 2020, is amended to read as follows:

8 A medical cannabidiol registration card issued by the  
9 department ~~of transportation~~ to a primary caregiver pursuant to  
10 subsection 3 shall contain, at a minimum, all of the following:

11 Sec. 15. Section 124E.4, subsection 4, paragraph b, Code  
12 2020, is amended by striking the paragraph.

13 Sec. 16. Section 124E.4, subsection 6, Code 2020, is amended  
14 by striking the subsection.

15 Sec. 17. Section 124E.5, subsections 2 and 6, Code 2020, are  
16 amended to read as follows:

17 2. The medical cannabidiol board shall convene at least  
18 twice ~~but no more than four times~~ per year.

19 6. ~~The medical cannabidiol board may recommend a statutory~~  
20 ~~revision to the definition of medical cannabidiol contained in~~  
21 ~~this chapter that increases the tetrahydrocannabinol level to~~  
22 ~~more than three percent, however, any such recommendation shall~~  
23 ~~be submitted to the general assembly during the regular session~~  
24 ~~of the general assembly following such submission. The general~~  
25 ~~assembly shall have the sole authority to revise the definition~~  
26 ~~of medical cannabidiol for purposes of this chapter.~~

27 Sec. 18. Section 124E.6, subsection 4, Code 2020, is amended  
28 by striking the subsection and inserting in lieu thereof the  
29 following:

30 4. A medical cannabidiol manufacturer shall contract with  
31 a laboratory to perform spot-check testing of the medical  
32 cannabidiol produced by the medical cannabidiol manufacturer  
33 as provided in section 124E.7. The department shall require  
34 that the laboratory report testing results to the medical  
35 cannabidiol manufacturer and the department as determined by

1 the department by rule. If a medical cannabidiol manufacturer  
2 contracts with a laboratory other than the state hygienic  
3 laboratory at the university of Iowa in Iowa City, the  
4 department shall approve the laboratory to perform testing  
5 pursuant to this chapter.

6 Sec. 19. Section 124E.7, subsection 1, Code 2020, is amended  
7 by striking the subsection and inserting in lieu thereof the  
8 following:

9 1. A medical cannabidiol manufacturer shall contract with  
10 a laboratory to perform spot-check testing of the medical  
11 cannabidiol produced by the medical cannabidiol manufacturer as  
12 to content, contamination, and consistency. The cost of all  
13 laboratory testing shall be paid by the medical cannabidiol  
14 manufacturer.

15 Sec. 20. Section 124E.9, Code 2020, is amended by adding the  
16 following new subsections:

17 NEW SUBSECTION. 13. A medical cannabidiol dispensary  
18 shall employ a pharmacist or pharmacy technician licensed or  
19 registered pursuant to chapter 155A for the purpose of making  
20 dosing recommendations.

21 NEW SUBSECTION. 14. A medical cannabidiol dispensary shall  
22 not dispense more than a combined total of four and one-half  
23 grams of total tetrahydrocannabinol to a patient and the  
24 patient's primary caregiver in a ninety-day period, except as  
25 provided in subsection 15.

26 NEW SUBSECTION. 15. A medical cannabidiol dispensary  
27 may dispense more than a combined total of four and one-half  
28 of total tetrahydrocannabinol to a patient and the patient's  
29 primary caregiver in a ninety-day period if any of the  
30 following apply:

31 a. The health care practitioner who certified the patient to  
32 receive a medical cannabidiol registration card certifies that  
33 patient's debilitating medical condition is a terminal illness  
34 with a life expectancy of less than one year. A certification  
35 issued pursuant to this paragraph shall include a total

1 tetrahydrocannabinol cap deemed appropriate by the patient's  
2 health care practitioner.

3     **b.** The health care practitioner who certified the patient to  
4 receive a medical cannabidiol registration card certifies that  
5 the patient has participated in the medical cannabidiol program  
6 and that the health care practitioner has determined that four  
7 and one-half of total tetrahydrocannabinol in a ninety-day  
8 period is insufficient to treat the patient's debilitating  
9 medical condition. A certification issued pursuant to this  
10 paragraph shall include a total tetrahydrocannabinol cap deemed  
11 appropriate by the patient's health care practitioner.

12     Sec. 21. Section 124E.11, subsection 1, paragraph b,  
13 subparagraph (1), subparagraph divisions (a) and (c), Code  
14 2020, are amended to read as follows:

15     (a) To authorized employees or agents of the department ~~and~~  
16 ~~the department of transportation~~ as necessary to perform the  
17 duties of the department ~~and the department of transportation~~  
18 pursuant to this chapter.

19     (c) To authorized employees of a medical cannabidiol  
20 dispensary, but only for the ~~purpose~~ purposes of verifying that  
21 a person is lawfully in possession of a medical cannabidiol  
22 registration card issued pursuant to this chapter and that a  
23 person has not purchased total tetrahydrocannabinol in excess  
24 of the amount authorized by this chapter.

25     Sec. 22. Section 124E.11, subsection 1, paragraph b,  
26 subparagraph (1), Code 2020, is amended by adding the following  
27 new subparagraph division:

28     NEW SUBPARAGRAPH DIVISION. (e) To a health care  
29 practitioner for the purpose of determining whether a patient  
30 seeking a written certification pursuant to section 124E.3 has  
31 already received a written certification from another health  
32 care practitioner.

33     Sec. 23. Section 124E.12, subsection 7, Code 2020, is  
34 amended to read as follows:

35     7. Notwithstanding any law to the contrary, the department,

1 ~~the department of transportation~~, the governor, or any employee  
2 of any state agency shall not be held civilly or criminally  
3 liable for any injury, loss of property, personal injury, or  
4 death caused by any act or omission while acting within the  
5 scope of office or employment as authorized under [this chapter](#).

6 Sec. 24. NEW SECTION. 124E.20 **Observational effectiveness**  
7 **study.**

8 The department may conduct an observational effectiveness  
9 study in cooperation with patients and health care  
10 practitioners and pursuant to rules of the department in order  
11 to study the effectiveness of medical cannabidiol in the  
12 treatment of debilitating medical conditions.

13 Sec. 25. NEW SECTION. 124E.21 **Employer regulation of**  
14 **marijuana use.**

15 1. Nothing in this chapter shall require an employer  
16 to permit or accommodate the use, consumption, possession,  
17 transfer, display, transportation, distribution, sale, or  
18 growing of marijuana in the workplace.

19 2. Nothing in this chapter shall prohibit an employer from  
20 implementing policies restricting the use of marijuana by  
21 employees for the purpose of promoting workplace health and  
22 safety.

23 3. Nothing in this chapter shall prohibit an employer  
24 from including in a contract with an employee a provision  
25 prohibiting the use of marijuana.

26 4. Nothing in this chapter shall prohibit an employer  
27 from establishing and enforcing a zero-tolerance drug policy  
28 or a drug-free workplace by use of a drug testing policy in  
29 accordance with section 730.5 or any other procedures provided  
30 by federal statutes, federal regulations, or orders issued  
31 pursuant to federal law.

32 Sec. 26. NEW SECTION. 124E.22 **Regulation of marijuana**  
33 **use by government medical assistance programs, private health**  
34 **insurers, and other entities.**

35 Nothing in this chapter shall require a government

1 medical assistance program, private health insurer, workers'  
2 compensation carrier, or self-insured employer providing  
3 workers' compensation benefits to reimburse a person for costs  
4 associated with the medical use of marijuana.

5     Sec. 27. NEW SECTION. 124E.23 Regulation of marijuana use  
6 on property.

7     Nothing in this chapter shall require a person that owns,  
8 occupies, or controls a property to allow the use, consumption,  
9 possession, transfer, display, transportation, distribution,  
10 sale, or growing of marijuana on or in that property.

11     Sec. 28. NEW SECTION. 124E.24 Limitation of liability.

12     Nothing in this chapter shall create any claim, cause of  
13 action, sanction, or penalty, for discrimination or under  
14 any other theory of liability, under chapter 216 or any  
15 other provision of law, based on an act, omission, policy, or  
16 contractual provision permissible under this chapter including  
17 but not limited to refusing to hire, discharging, disciplining,  
18 discriminating, retaliating, or otherwise taking any adverse  
19 employment action against a person with respect to hiring,  
20 tenure, or any terms, conditions, or privileges of employment.

21     Sec. 29. NEW SECTION. 124E.25 Cannabis-derived products  
22 — exemption.

23     This chapter shall not apply to any cannabis-derived  
24 investigational product or cannabis-derived product approved as  
25 a prescription drug medication by the United States food and  
26 drug administration.

27     Sec. 30. NEW SECTION. 124E.26 Applicability.

28     The provisions of this chapter apply notwithstanding any  
29 other provision of law to the contrary.

30     Sec. 31. PROTECTION OF FEDERAL FUNDING. The department  
31 of public health shall request guarantees from the agencies  
32 of the federal government providing funding to educational  
33 and long-term care facilities that facilities with policies  
34 allowing patients to possess medical cannabidiol on the grounds  
35 of the facilities consistent with chapter 124E or allowing



1 facility staff to administer medical cannabidiol to a patient  
2 shall not lose eligibility for any federal funding due to such  
3 policies.

4     Sec. 32. TRANSITION PROVISIONS. A medical cannabidiol  
5 registration card issued prior to July 1, 2020, remains  
6 effective and continues in effect as issued for the  
7 twelve-month period following its issuance.>

8     2. Title page, by striking lines 1 and 2 and inserting <An  
9 Act concerning the medical cannabidiol Act and marijuana.>

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BRAD ZAUN